Imbi World Sdn Bhd v Deluxe Tours Sdn Bhd

Prestige Capital Sdn Bhd v Deluxe Tours Sdn Bhd

COURT OF APPEAL (KUALA LUMPUR) — CIVIL APPEAL NOS W-02-285 OF 1995 AND W-02-405 OF 1995
MAHADEV SHANKAR, ABU MANSOR AND ABDUL MALEK AHMAD JJCA
27 JUNE 1997

***Landlord and Tenant** — Determination — Double rent — Whether claim for double rent and damages as a result of holding over after expiry of notice to quit should be allowed*

From November 1990, the first appellant was the registered proprietor of a property ('the property'). By an agreement ('the agreement'), the first appellant sold the property to the second appellant. The respondent was the tenant of two units of premises ('the premises') located on the property. On 30 July 1992, the respondent was given a one-month notice to quit the premises. The respondent did not deliver vacant possession until 28 February 1994. The transfer was completed on 5 May 1993. Therefore, as agreed between the first appellant and the second appellant, the former had to pay the latter interests earned on the balance of the purchase price calculated from the date the balance of the purchase price was paid to the date of vacant possession.

The appellants claimed and applied for summary judgment against the respondent, inter alia, for: (i) double rental from 1 September 1992 till 4 May 1993 payable to the first appellant and from 5 May 1993 to 28 February 1994 payable to the second appellant; and (ii) damages in the form of interests earned the balance of the purchase price payable by the first appellant to the second appellant for failure to deliver vacant possession of the property. Evidence tendered in court, which the respondent conceded, showed the existence of a monthly tenancy between the first appellant and the respondent. The trial judge, however, dismissed the application and held that as the respondent had a yearly tenancy granted orally by the original owner of the property since 1982, the notice to quit was invalid. The appellants appealed.

The issues before the court were: (i) whether in view of s 213(3) of the National Land Code 1965 ('the Code'), the first appellant was bound by the yearly tenancy allegedly granted by the original owner; (ii) whether the appellants were entitled to double rental after the expiry of the tenancy; (iii) whether the appellants were entitled to claim for damages.

Held, allowing the appeal:

(1) The first appellant was not bound by the oral yearly tenancy existing on the premises when it bought over the property as the oral agreement came within the purview of s 213 of the Code

(see p 537A–E); *Than Kok Leong v Low Kim Hai* [1983] 1 MLJ 187 followed. A

(2) The supporting documentary evidence indicated that the tenancy was a monthly tenancy and the respondent was clearly holding over after the expiry of the notice to quit. The respondent's subsequent delivery of vacant possession only indicated that the respondent knew it wrongly occupied the premises. In these circumstances, the appellants were entitled to double rental after the expiry of the tenancy. B

Furthermore, the respondent had conceded that there was a monthly tenancy which meant that the notice to quit given was valid. In addition, the respondent had agreed to pay the double rental. On these concessions alone, it meant there were no triable issues as regards to the monthly tenancy, the notice to quit and double rental (see pp 541G and 538E–F). C

(3) The damages prayed for were only in the form of reimbursement of the interest for the period the appellants were deprived of the possession of the premises and since this was a direct result of the respondent's wrongdoing, the appellants were entitled to claim for damages (see p 541H). D

[Bahasa Malaysia summary E

Dari bulan November 1990, perayu pertama merupakan tuan punya berdaftar sebidang harta ('harta tersebut'). Melalui suatu perjanjian ('perjanjian tersebut'), perayu pertama telah menjual harta tersebut kepada perayu kedua. Penentang adalah penghuni dua unit premis ('premis tersebut') yang terletak atas harta tersebut. Pada 30 Julai 1992, penentang telah diberikan notis sebulan untuk meninggalkan premis tersebut. Penentang tidak menghantar-serah milikan kosong sehingga 28 Februari 1994. Pindahmilik disempurnakan pada 5 Mei 1993. Oleh itu, seperti yang disetujui antara perayu pertama dan perayu kedua, perayu pertama harus membayar perayu kedua faedah yang didapati daripada baki harga belian yang dikira dari tarikh baki harga belian dibayar sehingga tarikh milikan kosong. F G

Perayu-perayu menuntut dan memohon penghakiman terus terhadap penentang, antara lain, untuk: (i) sewa berganda dari 1 September 1992 sehingga 4 Mei 1993 yang harus dibayar kepada perayu pertama dan dari 5 Mei 1993 sehingga 28 Februari 1994 yang harus dibayar kepada perayu kedua; dan (ii) ganti rugi dalam bentuk faedah yang didapati dari baki harga belian yang harus dibayar oleh perayu pertama kepada perayu kedua untuk kegagalan menghantar-serah milikan kosong harta tersebut. Keterangan dikemukakan di mahkamah, dan penentang bersetuju ia menunjukkan kewujudan penyewaan bulanan antara perayu pertama dan penentang. Namun demikian, hakim perbicaraan menolak permohonan dan memutuskan bahawa oleh kerana penentang mempunyai penyewaan tahunan yang diberikan secara lisan oleh pemilik asal harta tersebut H I

A sejak tahun 1982, notis keluar adalah tak sah. Perayu-perayu membuat rayuan.

Isu-isu di hadapan mahkamah adalah sama ada: (i) memandangkan s 213(3) Kanun Tanah Negara 1965 ('Kanun tersebut'), perayu pertama adalah terikat oleh penyewaan tahunan B yang dikatakan telah diberikan oleh pemilik asal; (ii) perayu-perayu berhak menuntut sewa berganda selepas tamatnya penyewaan; dan (iii) perayu-perayu berhak menuntut ganti rugi.

Diputuskan, membenarkan rayuan:

C (1) Perayu pertama tidak terikat oleh penyewaan tahunan lisan yang wujud atas premis tersebut ketika perayu pertama membeli harta tersebut kerana perjanjian lisan diliputi oleh s 213 Kanun tersebut (lihat ms 537A–E); *Than Kok Leong v Low Kim Hai* [1983] 1 MLJ 187diikut.

D (2) Keterangan dokumentar yang menyokong menunjukkan bahawa penyewaan adalah penyewaan bulanan dan penentang dengan jelasnya memegang lepas masa selepas tamatnya notis keluar. Hantar-serah milikan kosong oleh penentang berikutnya hanya menunjukkan bahawa penentang tahu ia menduduki premis secara salah. Dalam keadaan-keadaan ini, perayu-perayu berhak E mendapat sewa berganda selepas tamatnya penyewaan.

Tambahan pula, penentang telah mengakui bahawa terdapat penyewaan bulanan yang bermakna bahawa notis keluar yang diberikan adalah sah. Tambahan lagi, penentang telah bersetuju membayar sewa berganda. Atas konsesi ini sahaja, ia bermakna bahawa tiada isu yang boleh dibicarakan berkenaan dengan F penyewaan bulanan, notis keluar dan sewa berganda (lihat ms 541G dan 538E–F).

(3) Ganti rugi yang dipohon hanyalah dalam bentuk bayaran ganti faedah untuk tempoh perayu-perayu dilucut daripada milikan premis tersebut dan oleh kerana ini adalah akibat terus kesalahan G penentang perayu-perayu berhak menuntut ganti rugi (lihat ms 541H).]

Notes

For cases on determination of tenancy, see 9 *Mallal's Digest* (4th Ed, H 1995 Reissue) paras 813–967.

Cases referred to

Cheng Hang Guan & Ors v Perumahan Farlim (Penang) Sdn Bhd & Ors [1993] 3 MLJ 352 (refd)

I *Gracie Teo v Tay Leng Hong & Ors* [1987] 2 MLJ 435 (refd)

Lemon v Larduer [1946] KB 613 (refd)

Mohamed Abu Bakar s/o Yusof v PA Syed Aboothahir s/o P Ahmed [1990] 1 MLJ 26 (refd)

Queen's Club Gardens Estate Ltd v Bignell [1924] 1 KB 117 (refd)

Simmons v Crossley [1922] 2 KB 95 (refd) A
Than Kok Leong v Low Kim Hai [1983] 1 MLJ 187 (folld)

Legislation referred to

Civil Law Act 1956 s 28(4)(a)
National Land Code 1965 ss 213(3), 228(2) B
Rules of the High Court 1980 O 14

Appeal from: Suit No S5-22-583 of 1993 (High Court, Kuala Lumpur)

K Anantham (*Peter Pereira* with him) (*Skrine & Co*) for the appellants. C
K Balaguru (*PS Khoo & Associates*) for the respondent.

Abdul Malek Ahmad JCA (delivering the judgment of the court): These two appeals were heard together and for the purposes of this judgment we will, where the appellants are referred to separately, refer to the appellant D in the first appeal as the first appellant and the appellant in the second appeal as the second appellant. The respondent is the same in both appeals.

With effect from 16 November 1990, the first appellant was the registered proprietor of the property held under Grant 12089 Lot 200 E Section 67 Town of Kuala Lumpur ('the property') which was sold for RM20m to the second appellant by virtue of a sale and purchase agreement ('the agreement') entered into on 20 July 1992. On the property was one house and 24 apartments known as Cho Tek Flats situated at Jalan Imbi, Kuala Lumpur. The respondent was at all material times the tenant of units No 115 and No 117 of Cho Tek Flats ('the premises') on a month F to month basis at a monthly rental of RM3,600.

By letter dated 30 July 1992 from the solicitors for the first appellant to the respondent, which was received by the respondent on the same date, the first appellant had given notice to the respondent to terminate the monthly tenancy and to hand over vacant possession of the premises on or G before 31 August 1992.

One of the conditions of the agreement was that the first appellant was to deliver to the second appellant vacant possession of the property on receipt of the balance purchase price. The balance purchase price of RM18m was paid by the second appellant to the first appellant on 28 January H 1993 and the transfer was completed on 5 May 1993.

The respondent did not comply with the notice to quit by 31 August 1992. It was subsequently agreed between the first appellant and the second appellant that in lieu of delivery of vacant possession, the first appellant shall pay interest earned on the RM18m to the second appellant I calculated from 28 January 1993, when it was paid, up to 28 July 1993 and thereafter from 29 July 1993 until 28 February 1994, when the respondent delivered vacant possession.

Apart from claiming for vacant possession of the premises, the appellants had also prayed for double rental from 1 September 1992, the day after the expiry of the notice to quit, to 4 May 1993, the day before the property was transferred to the second appellant, to be paid to the first appellant, and from 5 May 1993, when the transfer was completed, to 28 February 1994, when the respondent delivered vacant possession, to be paid to the second appellant, at RM7,200 a month as particularized below with interest on double rental at the rate of 8% pa, costs and such other relief:

Double rental

For the first appellant:

For the period between 1 September 1992 till 4 May 1993 at the rate of RM7,200 per month

(i) RM7,200 x 8 months (01/09/92 till 30/04/93)	RM	57,600.00
(ii) RM7,200 ÷ 31 days x 4 days (01/05/93 till 04/05/93)	RM	929.03
	RM	58,529.03

For the second appellant:

For the period between 5 May 1993 till 31 May 1993 at the rate of RM7,200 per month

(i) RM7,200 ÷ 31 days x 27 days (05/05/93 till 31/05/93)	RM	6,270.97
(ii) RM7,200 x 9 months (01/06/93 till 28/02/94)	RM	64,800.00
	RM	71,070.97

In addition, the first appellant had asked for the interest earned on the RM18m which they had to pay to the second appellant which had been computed as follows:

Computation of interest

(A) On the sum of RM1,950,000		
(i) From 28/01/93 till 28/7/93 as pleaded in the statement of claim	RM	73,399.43
(ii) From 29/07/93 till 29/10/94	RM	33,666.90
(iii) From 30/10/93 till 28/02/94	RM	42,798.49
	RM	149,864.82

(B) On the sum of RM16,050,000

(i) From 28/01/93 till 28/07/93 as pleaded in the statement of claim	RM	604,133.73
(ii) From 29/07/93 till 29/10/93	RM	277,104.47
(iii) From 30/10/93 till 28/02/94	RM	349,905.44
	RM	1,231,143.64

Total: RM1,381,008.46

The appellants had applied for summary judgment under O 14 of the Rules of the High Court 1980 on 15 November 1993. The affidavit in support had restated the allegations in the statement of claim. It has been emphasized by learned counsel for the appellants that as at the date of the notice to terminate the tenancy, it was a monthly tenancy and only one month's notice was necessary.

The learned trial judge held on 27 March 1995 that since the respondent had been a tenant on the premises since 1982 on a yearly tenancy until the first appellant took over the property, which fact he said is not disputed by the first appellant, and since there is no written agreement to state that it was a monthly tenancy from then on, the tenancy remains a yearly tenancy and therefore the one month's notice to quit given on the 30 July 1992 was not valid. He had accordingly dismissed the application for summary judgment.

Leave to appeal against that decision was granted by this court on 26 June 1995.

Learned counsel for the appellants had submitted that the respondent is estopped from claiming that there is a tenancy other than a monthly tenancy as there is no documentary evidence to support their claim. Even if the respondent's claim was true, he added, the first appellant was not bound in view of sub-s (3) of s 213 of the National Land Code 1965 ('the Code') which reads:

> (3) Notwithstanding the provisions of subsection (2), no tenancy exempt from registration granted after the commencement of this Act shall be binding on —
>
> (a) any person or body to whom the grantor subsequently transfers the reversion expectant thereon, or to whom he subsequently grants any lease, sub-lease, tenancy or charge, or in whose favour any lien over that reversion is subsequently created; or
>
> (b) any person or body claiming through or under such a person or body,
>
> unless, prior to the date on which the dealing referred to in paragraph (a) takes effect, the tenancy has become protected by an endorsement on the register document of title to the land pursuant to Chapter 7 of Part Eighteen.

A Learned counsel had referred to *Than Kok Leong v Low Kim Hai* [1983] 1 MLJ 187 where the plaintiff had purchased the relevant premises as regards which the defendant was the tenant paying RM950 per month. On 26 January 1978, the plaintiff as registered proprietor gave the defendant a notice to quit which notice expired on 28 February 1978. The defendant
B refused to vacate.

The defendant contended that his tenancy was a lease pursuant to an oral agreement made between him and the former landlord who had granted him an oral lease for a period of three years commencing on 1 January 1974 with an option to renew for the same period of three years to be exercised by him.

C

The issue before the court was the effect of such an oral and unregistered lease. It was held by the High Court that the said oral agreement came under s 213 of the Code and was therefore not binding on the plaintiff. Further, sub-s (2) of s 228 of the Code likewise provides that an option conferred by any oral tenancy shall be unenforceable against any
D transferee of the reversion expectant thereon.

The appeal against that decision was heard on 23 September 1982 and the Federal Court had dismissed it with costs. Similarly here, we were of the view that the first appellant was not bound by the oral tenancy existing thereon when he bought over the premises on 16 November 1990.

E Vacant possession was only given on 28 February 1994 which was 18 months after 31 August 1992, that is, the date of expiry of the one month's notice. Although he conceded that it was a monthly tenancy as the first appellant was not bound by the earlier tenancy, learned counsel for the respondent had argued that the monthly tenancy had to be pleaded.
F He further stated that there were no particulars when it was entered into and when it would expire as there was no anniversary date. He also submitted that in view of the O 14 application, no statement of defence had been filed by the respondent.

Since the first appellant became the registered proprietor on 16 November 1990, he added, the anniversary of the monthly tenancy
G should be the 16th of each and every month thereafter but on the facts of this case, the respondent did not know on what date the rental was to be paid or for what period.

The affidavit-in-reply of the respondent had categorically stated that they had been the tenant on the premises since 1982 well before the first
H appellant took over the proprietorship. They insisted that the tenancy was a yearly tenancy and as such the one month's notice to quit given by the first appellant was not valid. In any case, they had further averred, vacant possession was no longer in issue as the premises had been handed over to the appellants on 28 February 1994, long before the arguments at the O 14 application. They also said that since 1982, the tenancy was for two years
I and the renewal was also for that period and this had not been denied by the first appellant.

Learned counsel for the respondent further reiterated that the statement of claim was defective in particular as regards the date the keys

were handed over on 28 February 1994. He emphasized that this was not a case when the respondent had refused to pay rental but it was because their payments were not accepted. The respondent was agreeable, learned counsel had further submitted, to pay the double rental but not damages. A

He had cited *Lemon v Lardeur* [1946] 1 KB 613 where the plaintiff was the landlord and the defendant the tenant of a dwelling house let upon a four-weekly tenancy. No evidence was given as to the date of the commencement of the tenancy. A letter dated 20 July 1945 was sent to the defendant, which purported to be a notice to quit, in the following terms: B

> This is to confirm that I wish to give you a month's notice as from 1 August 1945 to vacate 'Stella Maris'. C

The letter was signed by the plaintiff's husband. The plaintiff claimed possession by virtue of the notice. The county court judge held that the notice was a good notice and made an order for possession. It was held that in the case of every periodic tenancy, including monthly and weekly tenancies, a notice to quit must expire at the end of a current period of the tenancy (*Queen's Club Gardens Estate Ltd v Bignell* [1924] 1 KB 117, considered and approved; *Simmons v Crossley* [1922] 2 KB 95, disapproved). It is for the landlord to prove that the notice he gives expires on the correct date. Secondly, that where a notice to quit is given by a particular agent, having a limited authority only, such notice should be given in the name of the principal or expressly on his behalf and, if not so given, is bad. D E

We saw no merit in all these arguments as apart from the fact that learned counsel for the respondent had conceded that it was a monthly tenancy which meant that the notice to quit was valid, the respondent had also agreed to pay the double rental but not the damages. On this concession alone, it meant that there were no triable issues as regards the monthly tenancy and the validity of the notice to quit, and the double rental. Only damages became an issue. F

The short reply of learned counsel for the appellants was that there is nothing in law that limits the remedy. Over and above the double rental, he insisted, the appellants were entitled to damages which they had particularized. He said the sale could not be completed simply because the respondent was holding over. G

Although learned counsel for the appellants said that the issues were the same for the second appellant, learned counsel for the respondent submitted that the Code applied to the second appellant and they should not get the double rental as at most they could only sue the respondent as licencee and a licencee did not require a notice to quit. The second appellant had to apply for leave to bring the appeal and the question of law had to be determined at a trial. As such, he asserted that an O 14 application was not the appropriate remedy as there were issues to be tried. Again, we found no merit in this submission as the second appellant was already the registered proprietor on 5 May 1993. H I

After all that has been said, we concluded that even if the respondent was a tenant on a yearly tenancy with the previous landlord, which fact has not actually been supported by any evidence, the first appellant was not at

A all bound based on the provisions in the Code and the case authorities cited and it was entirely up to the first appellant to state on what terms the tenancy would be allowed to continue, when it was allowed to be continued.

Our conclusion is further cemented by the fact that there is correspondence in the appeal record, as highlighted by learned counsel for
B the appellants, that the first appellant's secretary had on 24 October 1991 written to the respondent, which letter had been acknowledged by the respondent, terminating the tenancy which is on a month to month basis with effect from 31 December 1991.

The reply dated 11 November 1991 signed by the managing director
C of the respondent stated that they had managed to purchase a shop lot down the road but as the tenant of that shop lot could only vacate the premises by the end of March 1992, the respondent would need two months to renovate. In view of that, they had asked for an extension of time until the end of May 1992. The effect of this letter is that the respondent did not, at that point of time, dispute that the tenancy was a
D monthly tenancy. For that very reason, we are of the view that they are now estopped from denying it at this juncture.

Pursuant to that reply, the first appellant's secretary had written to the respondent on 10 December 1991 agreeing to the extension subject to certain conditions including that the monthly rental was to be paid by the
E 7th of each month, the respondent was to vacate the premises in good, clean and tenantable condition, all arrears amounting to RM10,300 was to be paid before 17 December 1991 and a bank guarantee for RM75,000 was to be given by the respondent in favour of the first appellant in the event vacant possession was not delivered.

By letter dated 13 May 1992, the managing director of the respondent
F had again written to the first appellant asking for a further extension up to 31 December 1992 as the present tenant to the shop lot they bought had asked for a further extension. The first appellant was not agreeable and by letter dated 22 May 1992 had categorically told the respondent that they were willing to continue the lease on a month to month basis with one
G month's notice should either party wish to terminate the tenancy.

As for the issue of double rental, *Atkin's Encyclopaedia of Court Forms in Civil Proceedings* (2nd Ed, 1995) Vol 24(1) at pp 55 and 56 states:

> 31 *Action for double rent.* Where a tenant has power to determine his tenancy by notice to quit and gives such a notice but fails to deliver up
> H possession at the time specified in the notice during the time that he holds over after the expiration of the notice, he is liable to pay to the landlord double the rent payable under the tenancy. This may apply even to a tenant protected by the Rent Act 1977, though the point is doubtful. The notice to quit must be a valid notice, and if it is waived, a fresh tenancy is created. The same remedies are open to the landlord
> I for recovery of the double rent as for the single rent, but the tenant's liability ceases on his vacating the premises, and a fresh notice to quit is not necessary for this purpose.
>
> 32 *Action for double value.* A tenant for a term of years which has expired, or any person in possession of the premises under or by collusion with

him, who wilfully holds over after demand made and notice in writing for delivery of possession given by the reversioner or his lawfully authorized agent is liable to pay to the reversioner at the rate of double the yearly value of the premises; no relief in equity is available against this penalty. The holding over must be wilful and contumacious in the sense that the tenant knows he has no right to keep possession, and not under a bona fide mistake or under a fair claim of right even if ill-founded. The action will not lie in the case of a sub-tenant holding over without the tenant's consent or of a statutory tenant holding over by virtue of the Rent Act 1977.

The double value is calculated from the date of determination of the tenancy or the date of giving the notice, whichever is the later. If the landlord accepts a single rent during his entitlement to double value, it is a question of fact whether this constitutes a waiver of the claim to double value.

In *Cheng Hang Guan & Ors v Perumahan Farlim (Penang) Sdn Bhd & Ors* [1993] 3 MLJ 352, Edgar Joseph Jr SCJ, sitting as a High Court judge, said at p 416:

The general rule as to the measure of damages, a rule equally applicable to tort as to contract, was defined by Lord Blackburn in *Livingstone v Rawyards Coal Co* (1880) 5 App Cas 25 at p 39 in these terms: 'that sum of money which will put the party who has been injured, or who has suffered, in the same position as he would have been if he had not sustained the wrong for which he is now getting his compensation or reparation'.

In *Munnelly v Calco* [1978] IR 387, Henchy J said, at p 399:

> '... the particular measure of damages allowed should be objectively chosen by the court as being that of the particular case, to put the plaintiff fairly and reasonably in the position in which he was before the damage occurred, so far as pecuniary awards can do so.'

Before I proceed to assess the quantum of damages, I would remind myself of certain other well-established principles which I should keep in the forefront of my mind in considering this part of the case.

First, when a plaintiff claims damages from a defendant, he has to show that the loss in respect of which he claims damages was caused by the defendant's wrong and also that the damages are not too remote to be recoverable.

Secondly, I would refer to what Lord Goddard said in *Bonham-Carter v Hyde Park Hotel Ltd* (1984) 64 TLR 177, at p 178:

> 'Plaintiffs must understand that if they bring actions for damages it is for them to prove their damage; it is not enough to write down the particulars, and, so to speak, throw them at the head of the court, saying: "This is what I have lost; I ask you to give me these damages." They have to prove it.'

Thirdly, on the quality of evidence expected of a plaintiff, it is necessary to remember what Devlin J (as he then was) said in *Biggin & Co v Permanite* [1951] 1 KB 422 at p 438, namely, that where precise evidence is obtainable, the court naturally expects to have it; where it is not, the court must do the best it can. Nevertheless, it remains true to say that generally, difficulty of proof does not dispense with the necessity for proof. (See *Aerial Advertising Co v Batchelors Peas (Manchester)* [1938] 2 All ER 788 at p 796, per

A Atkinson J.) The case of *Ashcroft v Curtin* [1971] 1 WLR 1731; [1971] 3 All ER 1208 illustrates this point, for there the plaintiff, claiming for diminution of profits of his one-man business, failed in his claim despite the evidence pointing to a decrease in the company's profitability due to the injury, the records relied on being too rudimentary and the accounts too unreliable to quantify the loss.

B It was held in *Mohamed Abu Bakar s/o Yusof v PA Syed Aboothahir s/o P Ahmed* [1990] 1 MLJ 26 that mesne profits are in the nature of damages for trespass and they are assessed on the basis of the value of the premises at the relevant time, that is to say, at the time judgment was pronounced in the court below. It was also held that the appropriate order to make was C that the defendant be chargeable with double the market rental value of the premises from the date of expiry of the notice to quit to the date when possession was handed over to the plaintiff with the rider that the damages payable be limited to the jurisdiction of the particular court.

Over in Singapore, it has been ruled in *Gracie Teo v Tay Leng Hong* D *& Ors* [1987] 2 MLJ 435 that once there is a holding over of the tenancy of a property, the landlord is entitled to double rent until possession is given or double the value during the period of detention of the property. It is not a requirement that there should be a wilful holding over on the part of a tenant.

E Paragraph (a) of sub-s (4) of s 28 of the Civil Law Act 1956 states:

> Every tenant holding over after the determination of his tenancy shall be chargeable, at the option of his landlord, with double the amount of his rent until possession is given up by him or with double the value during the period of detention of the land or premises so detained, whether notice to that effect has been given or not.

F On these considerations, we had to disagree with the learned trial judge that the tenancy was not a monthly tenancy and that the notice to quit was not valid. The supporting documentary evidence certainly indicate that it was a monthly tenancy and the respondent was certainly holding over after the expiry of the notice to quit. Their subsequent delivery of vacant G possession only shows that they knew they were occupying the premises wrongly. In these circumstances, the appellants are certainly entitled to double rental after the expiry of the tenancy. The damages asked for were only in the form of the reimbursement of the interest for the period the appellants were deprived of the possession of the premises and we held H that since this was the direct result of the respondent's wrongdoing, the appellants were certainly entitled to claim them.

There are therefore no issues to be tried. We would allow the appeals with costs here and below and order double rental, damages and interest as computed. The deposits are to be refunded to the appellants.

I *Appeal allowed.*

Reported by Lew Chee Seong